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09/389,819	09/03/1999	GREG B. GARRISON	192304-1035	5925

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EXAMINER

KLIMACH, PAULA W

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 01/16/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

8

# Office Action Summary

Application No.

09/389,819

Applicant(s)

GARRISON, GREG B.

Examiner

Paula W Klimach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to amendment filed on 10/20/03 (Paper No. 16). Original application contained Claims 1-24. Applicant added Claims 25-30, and amended Claims 11 and 12, and cancelled claim 18. Applicants also have made the appropriate adjustment to Claims 1 to overcome claim objection as identified in previous office action (Paper No. 15). The amendment filed on 10/20/03 have been entered and made of record. Therefore, presently pending claims are 1-30.

### ***Response to Arguments***

Applicant's arguments filed 10/20/03 have been fully considered but they are not persuasive because of following reasons.

Applicant argued, "the key records and the encrypted parts do not appear to be decrypted by the same computer both rather appear to be decrypted by the second computer and the UPC, respectively". This is not found persuasive due to the new grounds of rejection. It is obvious that the RCC and the producer can be software run on the same computer and providing the cryptolope to the user. Therefore, the second computer would be made up of the producer and the RCC. The role of the RCC is purely administrative. The first computer would be the UPC, which is the consumer of the cryptolope.

Applicant argues further, "it does not appear that Kaplan discloses a second computer configured to decrypt both a header and a data portion of the same data message as claimed in claim 1." This is not found persuasive. The information in the cryptolope, as shown in the Figure, include the key separate from record (information) the encrypted text, but in the same

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data message. Therefore, the key record information can obviously be placed in the header of the same data message. The RCC is also disclosed as encrypting the license cryptolope in the "Buying a Cryptolope," which is sent to the second computer, the UPC. The cryptolope diagram also shows the key record, which is the encrypted document key (paragraph: Key records).

Therefore, the examiner asserts that the prior art does teach or suggest the subject matter broadly recited in independent Claims 1, 11, 12, and 30. Dependent Claims 2-10, 13-17, and 19-29 are also rejected at least by virtue of their dependency on independent claims and by other reason set forth in this office action (Paper No. 17). Accordingly, rejections for claims 1-30 are respectfully maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-4, 11, 12, 14-19, and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan.

1. *In reference to claim 1, 11, 12, and 30*, Kaplan discloses a system for securely transmitting data messages, the publisher/ Content creator of page 6 paragraph 1, where a first computer is configured to transmit a data message, the data message having a header and a data portion, and the first computer is configured to encrypt the data portion via a first encryption technique, and to encrypt the header via a second encryption technique, page 3 paragraph 3, the first computer is further configured to include information associated with the first encryption

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technique in the header, page 5 paragraph 5; and a second computer configured to receive the first data message and to decrypt the header, the second computer, content user/consumer, is further configured to decrypt the data portion based on the information included in the header, page 7 paragraph 1 in combination with paragraph 3.

Kaplan does not expressly disclose a system consisting of two computers.

However, it is obvious that the Publisher and the Royalty Clearing Center could consist of one computer. Kaplan discloses the Publisher and the Royalty Clearing Center as two elements that carry out the key distribution and the encryption of data. These two elements can be carried out in software that is installed on one computer. It would be obvious to one of ordinary skill in the art to carry out the functionality of the Publisher and the Royalty Clearing Center on one computer because this would reduce the cost of another computer especially in a one to one relationship between the Publisher and the Royalty Clearing Center

2. *In reference to claim 2*, the information associated with the first encryption technique identifies the second encryption technique, page 5 paragraph 5.
3. *In reference to claims 3 and 14*, the second encryption technique includes RSA encryption, page 3 paragraph 6.
4. *In reference to claims 4 and 15*, the first encryption technique includes DES encryption, page 3 paragraph 3.
5. *In reference to claim 16*, Kaplan encrypts the data portion of the first data message with an encryption key and includes the encryption key in said header of said first data message, page paragraphs 3 and 4.
6. *In reference to claim 17*, the encryption key is selected randomly, page 3 paragraph 3.

7. *In reference to claim 18*, Kaplan discloses receiving the first data message transmitted in the transmitting step; decrypting the header of the first data message; and decrypting the data portion of the first data message based on said information included in said header of the first data message, page 7 paragraph 3.
8. *In reference to claim 19*, identify the first encryption technique via information included in the header of the first data message, page 7 paragraph 3.
9. *In reference to claim 25*, wherein said data message comprises a single data packet, wherein said data portion and said header are contained in said data packet (Figure of cryptolope).
10. *In reference to claims 26- 28*, wherein said information included in said header comprises decryption instructions for decrypting said data portion. The figure of the cryptolope suggests that the information is provided in the same data message and therefore it is obvious that the encryption data can be moved to the header information.
11. *In reference to claim 29*, wherein said information identifies a key stored at said second computer, and wherein said second computer is configured to select said key based on said information and to use key to decrypt said data portion. The key record disclosed in the figure of the Cryptolope discloses a encrypted key is stored in the key record, therefore it is used by the second computer, the UPC, to decrypt that Encrypted data (paragraph: Key records).
12. **Claims 5, 7, 8, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan as applied to claim 1 above, and further in view of Xiao (6,571,337 B1).
13. *In reference to claims 5 and 20*, Kaplan does not expressly disclose the first computer transmits a public key to said second computer.

Xiao, discloses the first computer transmits a public key to said second computer, claim 6 lines 13-17.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to transmit the key to decrypt the header information of Kaplan with the key of Xiao. One of ordinary skill in the art would have been motivated to do this because the key would be provided after the customer satisfies the terms and conditions for accessing the data entity, Xiao claim 6 lines 9-12.

14. *In reference to claim 7*, Kaplan discloses the structure that is contains the first encryption technique identifies an encryption key used by said first computer to encrypt said data portion, page 3 paragraph 4-7.

15. *In reference to claim 8*, Xiao discloses a first computer randomly selects said encryption key, column 4 lines 45-47.

16. **Claims 6 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan and Xiao as applied to claim 5 above, and further in view of Schneier.

Kaplan and Xiao do not expressly disclose first computer is configured to encrypt said public key before transmitting said public key to said second computer.

Schneier discloses an encrypted key exchange, where part of the process is to encrypt the key that is sent, page 518 paragraph 4.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to encrypt the key sent to the consumer in Kaplan using the method of Schneier. One of ordinary skill in the art would have been motivated to do this because it would prevent a third party guessing the key, page 519 paragraph 1.

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17. **Claims 9, 10, 13, and 22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaplan as applied to claim 1 above, and further in view of Leppek (6,233,338 B1).

18. *In reference to claims 9 and 22*, Kaplan does not disclose transmitting a list of encryption techniques to said first computer and said first computer is configured to select said first encryption technique from said list.

Leppek discloses transmitting a plurality of different operators, claim 1 lines 9-13. This is the equivalent to transmitting the techniques because the operator dictates how the data will be operated on and therefore the technique of encryption.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to transmit the operators from the publisher of Kaplan to the content user of Kaplan, as disclosed in Leppek. One of ordinary skill in the art would have been motivated to do this because a scrambled data stream with no readily discernible encryption footprint will result, column 2 lines 25-40.

19. *In reference to claim 10, 13, 23, and 24*, the of operators disclosed by Leppek, may vary as required by the user, column 2 lines 51-57, and thus are randomly selected, resulting in random encryption algorithms being created each time.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula W Klimach whose telephone number is (703) 305-8421.

The examiner can normally be reached on Mon to Thr 9:30 a.m to 5:30 p.m.



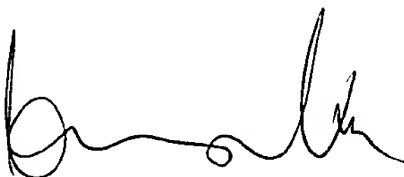
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4832.

PWK

Friday, January 09, 2004



KIM VU  
SUPERVISORY PATENT EXAMINER  
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